
A BILL FOR AN ACT

RELATING TO TAX INCREMENT FINANCING AMENDMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to make various
2 amendments to the tax increment financing enabling law intended
3 to encourage the counties to use that method to finance project
4 costs. The major amendments are the following:

5 (1) Counties are expressly authorized to up-zone land
6 within a tax increment district and include the
7 increased assessed value in the assessment increment
8 for the district. The assessment increment is the
9 increase in assessed value after the creation of the
10 district. The legislature intends that counties may
11 pledge the real property tax revenues generated from
12 the up-zoned land to the payment of the tax increment
13 bond debt service and other district project costs;

14 (2) The excess real property tax revenues from the tax
15 increment of a district are to be realizations of a
16 county's general fund. The excess revenues are those
17 remaining after the payment of the tax increment bond
18 debt service and other district project costs. By



1 this amendment, the legislature intends for counties
2 to be able to realize a greater amount of revenues for
3 the county's general fund from the tax increment
4 district;

5 (3) A county and developer are authorized to enter into an
6 agreement that, in effect, uses tax increment bond
7 proceeds to construct infrastructure or to pay an
8 impact fee or other exaction. Such an agreement is
9 authorized only if:

10 (A) The housing units developed are sold to low- or
11 moderate-income families; and

12 (B) The savings realized from the use of tax
13 increment financing, rather than private
14 conventional financing, are passed on to the
15 purchasers of the housing units. By this
16 amendment, the legislature intends to provide the
17 counties with another option for financing the
18 construction of infrastructure while encouraging
19 the development of affordable housing units; and

20 (4) Counties are expressly authorized to establish a
21 differential real property tax rate or rates for real
22 property within a tax increment district. The



1 legislature intends that this amendment enable
 2 counties to generate a tax increment from a district
 3 sufficient to pay the tax increment bond debt service
 4 and other district project costs while maintaining a
 5 lesser tax rate or rates on real property outside the
 6 district.

7 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
 8 by adding a new section to part VI to be appropriately
 9 designated and to read as follows:

10 "§46- Up-zoning within tax increment district. A
 11 county may up-zone all or a portion of the land within a tax
 12 increment district following the creation of the district. If
 13 doing so, the tax increment for the district shall include the
 14 increase in assessed value resulting from the up-zoning. For
 15 the purpose of this section, "up-zoning" means an amendment to
 16 the county's zoning code or relevant zoning map that, when
 17 compared to the previous zoning, permits:

- 18 (1) More variety of residential, apartment, commercial,
 19 industrial, or resort uses;
- 20 (2) More intensive residential, apartment, commercial,
 21 industrial, or resort uses; or



1 (3) Greater building densities or higher structure
2 heights."

3 SECTION 3. Section 46-102, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending the definitions of "assessment base" and
6 "assessment increment" to read as follows:

7 ""Assessment base" means the total assessed values of all
8 taxable real property in a tax increment district as most
9 recently certified by the director of finance on the date of
10 creation of the tax increment district[-] and as subsequently
11 adjusted pursuant to section 46-111.

12 "Assessment increment" means the amount by which the
13 current assessed values of taxable real property located within
14 the boundaries of a tax increment district exceeds its
15 assessment base. The term includes the increase in assessed
16 values resulting from an up-zoning of real property within the
17 tax increment district."

18 2. By repealing the definition of "adjustment rate".

19 ~~["Adjustment rate" means a percentage rate or rates of~~
20 ~~adjustment of the assessment base determined by the director of~~
21 ~~finance at the time the tax increment district is established,~~
22 ~~based on the historical and projected increases to the assessed~~

1 ~~values taxable real property within the boundary of the tax~~
2 ~~increment district and the projected cost increases to the~~
3 ~~county for servicing the new developments within the tax~~
4 ~~increment district."]~~

5 SECTION 4. Section 46-104, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§46-104 County powers.** A county may exercise any power
8 necessary and convenient to establish tax increment districts,
9 including the power to:

- 10 (1) Create tax increment districts and determine the
11 boundaries of the districts;
- 12 (2) Issue tax increment bonds;
- 13 (3) Deposit tax increments into the tax increment fund
14 created for a tax increment district; ~~and~~
- 15 (4) Enter into agreements, including agreements with the
16 redevelopment agency and owners or developers of
17 project lands and bondholders, determined to be
18 necessary or convenient to implement redevelopment
19 plans or community development plans, as the case may
20 be, and achieve their purposes ~~[]~~; and
- 21 (5) Enter into an agreement with a developer of housing
22 units within a tax increment district under which:



- 1 (A) The county waives the requirement for the
2 developer to construct infrastructure or pay an
3 impact fee or other exaction for the housing
4 units;
- 5 (B) The county constructs the infrastructure or pays
6 the impact fee or other exaction using the
7 proceeds of tax increment bonds; and
- 8 (C) For each housing unit developed to be sold by the
9 developer, the developer agrees to sell the unit
10 to a family earning not more than one hundred
11 forty per cent of the relevant area median income
12 at a price:
- 13 (i) Affordable to the family; and
- 14 (ii) Reflective of the savings realized by the
15 developer from the use of the tax increment
16 bonds rather than private conventional
17 financing to construct the infrastructure or
18 pay the impact fee or other exaction.
- 19 The price at which each housing unit is sold by
20 the developer shall be agreed upon by the county
21 and developer.



1 The county and developer may agree to any other
2 term or condition that is not inconsistent with
3 this paragraph. The term or condition may
4 include an owner-occupancy requirement, buy-back
5 restriction, or shared appreciation condition.
6 For the purpose of this paragraph, "relevant area
7 median income" means the median annual income,
8 adjusted for family size, for households in the
9 county within which an eligible project is
10 situated as most recently established by the
11 United States Department of Housing and Urban
12 Development for the section 8 housing assistance
13 payments program."

14 SECTION 5. Section 46-105, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§46-105 Collection of tax increments.** (a) The county by
17 ordinance shall provide for the allocation of real property
18 taxes and tax increments in the manner required by this part.

19 (b) If a county exercises the power allowed under this
20 part, then commencing with the first payment of real property
21 taxes levied by the county subsequent to the time a tax



1 increment district takes effect, receipts from real property
2 taxes shall be allocated and paid over as follows:

3 (1) The amount of real property tax produced from the
4 assessment base shall be paid to the county general
5 fund; and

6 (2) The tax increments produced from the assessment
7 increment in the tax increment district shall be
8 applied as follows:

9 (A) First, an amount equal to the installment of:

10 (i) [~~principal~~] Principal and interest falling
11 due of any tax increment bonds[~~7~~]; or

12 (ii) [~~any~~] Any project cost approved by the
13 county,

14 shall be deposited into the tax increment fund
15 established for the tax increment district[~~7~~];

16 (B) Second, [~~an amount equal to the adjustment rate~~
17 ~~times the amount of real property tax produced~~
18 ~~from the assessment base shall be computed and~~
19 ~~paid to the county general fund.~~

20 (C) Third,] the remaining amount of tax increments,
21 if any, shall be deposited into the [~~tax~~



1 ~~increment~~] county general fund [~~established for~~
2 ~~the tax increment district~~].

3 (c) The allocation of real property taxes pursuant to this
4 part [~~shall~~] in no way shall limit the power of the county under
5 section 47-12 to levy ad valorem taxes without limitation as to
6 rate or amount on all real property subject to taxation by the
7 county for the payment of the principal and interest of its
8 general obligation bonds.

9 (d) The county may adopt a real property tax rate or rates
10 on real property within a tax increment district that are higher
11 than the rate or rates for identically classified real property
12 outside the district."

13 SECTION 6. Section 46-111, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§46-111 Computation of tax increment.** (a) Upon or after
16 creation of a tax increment district, the director of finance of
17 the county in which the district is situated shall certify the
18 assessment base of the tax increment district and shall certify
19 in each year thereafter the amount by which the assessment base
20 has increased or decreased as a result of a change in tax exempt
21 status of property within the district, or reduction or
22 enlargement of the district. The amount to be added to the



1 assessment base of the district as a result of previously tax
2 exempt real property within the district becoming taxable shall
3 be equal to the assessed value of the real property as most
4 recently assessed or, if the assessment was made more than one
5 year prior to the date of transfer rendering the property
6 taxable, the value ~~[which]~~ that shall be assessed by the
7 director of finance at the time of ~~[such]~~ the transfer. The
8 amount to be added to the assessment base of the district as a
9 result of enlargements thereof shall be equal to the assessed
10 value of the additional real property as most recently certified
11 by the director of finance as of the date of modification of the
12 tax increment financing plan. The amount to be subtracted from
13 the assessment base of the district as a result of previously
14 taxable real property within the district becoming tax exempt,
15 or a reduction in the geographic area of the district, shall be
16 the amount of assessment base initially attributed to the
17 property becoming tax exempt or being removed from the district.

18 In no event shall the assessment base of a tax increment
19 district be increased because of any up-zoning of real property
20 within the district that takes effect after the creation of the
21 district.



1 (b) If the assessed value of property located within the
 2 tax increment district is reduced by reason of a court-ordered
 3 abatement, stipulated agreement, or voluntary abatement made by
 4 the director of finance, the reduction shall be applied to the
 5 assessment base of the district when the property upon which the
 6 abatement is made has not been improved since the date of
 7 creation of the district^[7] and to the assessment increment of
 8 the district in each year thereafter when the abatement relates
 9 to improvements made after the date of creation.


10 [~~b~~] (c) The director of finance shall certify the amount
 11 of the assessment increment to the county and redevelopment
 12 agency each year, together with the proportion that the
 13 assessment increment bears to the total assessed value of the
 14 real property within the tax increment district for that year."

15 SECTION 7. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect on July 1, 2008.

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Report Title:

Tax Increment Financing; Affordable Housing

Description:

Amends the tax increment financing enabling law to encourage counties to use that method of financing of project costs for affordable housing.

